

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JAY ALIX,

Plaintiff,

v.

MCKINSEY & CO., INC.; MCKINSEY HOLDINGS, INC.; MCKINSEY & COMPANY INC. UNITED STATES; MCKINSEY RECOVERY & TRANSFORMATION SERVICES U.S., LLC; DOMINIC BARTON; KEVIN CARMODY; JON GARCIA; SETH GOLDSTROM; ALISON PROSHAN; and ROBERT STERNFELS,

Defendants.

Case No. 18-cv-04141 (JMF)

**DECLARATION OF JENNIFER M.
SELENDY IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS**

I, Jennifer M. Selendy, hereby declare under penalty of perjury that:

1. I am a member of the New York bar and admitted to practice before this Court. I am a Managing Partner with the law firm Selendy & Gay PLLC, attorneys for Defendants in the above-captioned litigation. I submit this Declaration and the annexed exhibits in support of Defendants' Motion to Dismiss the Complaint being filed concurrently with this declaration.

2. Annexed hereto as Exhibits 1-A through 13-D are the supporting affidavits and declarations that were filed by the debtors seeking court approval to retain McKinsey & Company, Inc. United States ("McKinsey US") or McKinsey Recovery & Transformation Services U.S., LLC ("McKinsey RTS" or "RTS")¹ in the thirteen bankruptcies referenced in the Complaint. (Dkt. 1.) These applications were made pursuant to 11 U.S.C. §§ 327, 328, 330, 331, 363, and/or 1107(b)

¹ In addition to McKinsey US and RTS, the debtors in the *American* bankruptcy retained five other McKinsey entities, as set out in paragraphs 14–20, *infra*.

and Fed. R. Bankr. P. 2014 and/or 2016 and publicly docketed. The title and docket location of each document is set out in full in paragraphs 3 through 41 of this Declaration. This Declaration also attaches three further public filings by other parties in three of the bankruptcies referenced in the Complaint. The title and docket location of each of these documents is set out in full in paragraphs 42 through 44 of this Declaration.

3. Annexed hereto as Exhibit 1-A is a true and correct copy of the Application For Order Under 11 U.S.C. §§ 327(a) And 328(a) And Fed. R. Bankr. P. 2014(a) And 2016 Authorizing Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultant For Debtors-In-Possession, Nunc Pro Tunc To The Petition Date [Doc. 103] and Affidavit Of Richard K. Sykes In Support Of Debtors' Application For Order Under 11 U.S.C. §§ 327(a) And 328(a) And Fed. R. Bankr. P. 2014(a) Authorizing Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultant To The Debtors [Doc. 103-3] filed on December 27, 2001 in *In re Hayes Lemmerz International, Inc.*, No. 01-BR-11490, (D. Del. filed Dec. 5, 2001) ("*Hayes*").

4. Annexed hereto as Exhibit 1-B is a true and correct copy of the Supplemental Affidavit Of Richard K. Sykes In Support of Debtors' Application For Order Under 11 U.S.C. §§ 327(a) And 328(a) And Fed. R. Bankr. P. 2014(a) Authorizing Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultant To The Debtors [Doc. 365] filed on February 14, 2002 in *Hayes*.

5. Annexed hereto as Exhibit 1-C is a true and correct copy of the Second Supplemental Affidavit Of Richard K. Sykes Pursuant To Order Under 11 U.S.C. §§ 327(a) And 328(a) And Fed. R. Bankr. P. 2014(a) And 2016 Authorizing Employment And Retention Of

McKinsey & Company, Inc. United States As Management Consultant for Debtors-In-Possession, Nunc Pro Tunc To The Petition Date [Doc. 479] filed on March 13, 2002 in *Hayes*.

6. Annexed hereto as Exhibit 2-A is a true and correct copy of the Application For An Order Pursuant To 11 U.S.C. §§ 327(a) And 328(a) And Bankruptcy Rule 2014(a) Authorizing The Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultant To The Debtors [Doc. 52-1] and Affidavit Of Gerhard J. Bette In Support Of Debtors' Application For Order Under 11 U.S.C. §§ 327(a) And 328(a) And Fed. R. Bankr. P. 2014(a) Authorizing Employment And Retention of McKinsey & Company, Inc. United States As Management Consultant To The Debtors [Doc. 52-1] filed on December 9, 2002 in *In re UAL Corporation*, No. 02-BR-48191 (Bankr. N.D. Ill. filed Dec. 9, 2002) ("*United*").

7. Annexed hereto as Exhibit 2-B is a true and correct copy of the Supplemental Affidavit Of Nikolaus D. Semaca In Support of Debtors' Application For Order Under 11 U.S.C. §§ 327(a) And 328(a) And Fed. R. Bankr. P. 2014(a) Authorizing Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultant To The Debtors [Doc. 1606-1] filed on February 27, 2003 in *United*.

8. Annexed hereto as Exhibit 3 is a true and correct copy of the Affidavit Of Kenneth J. Ostrowski In Support of Debtors' Application To Retain McKinsey & Company, Inc. United States As Management Consultant To The Debtors [Doc. 1457-1], which was attached to the Application For Entry Of An Order Pursuant To 11 U.S.C. §§ 327(A) And 328 Authorizing The Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultant To The Debtors Effective As Of September 29, 2003 [Doc. 1457] filed on October 27, 2003 in *In re Mirant Corp.*, No. 03-BR-46590 (Bankr. N.D. Tex. filed July 14, 2003).

9. Annexed hereto as Exhibit 4-A is a true and correct copy of the Affidavit Of Thomas Hundertmark In Support of Debtors' Application For Order Under 11 U.S.C. §§ 327(a) And 328(a) And Federal Rule Of Bankruptcy Procedure 2014(a) Authorizing Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultants To The Debtors [Doc. 2090], which was attached as exhibit A to the Debtors' Application Pursuant To Sections 327(A) And 328(A) And Federal Rule Of Bankruptcy Procedure 2014(A) Authorizing Employment And Retention Of McKinsey & Company, Inc. United States As Management Consultant To The Debtors [Doc. 2090] filed on June 26, 2009 in *In re Lyondell Chemical Co.*, No. 09-BR-10023 (Bankr. S.D.N.Y. filed January 6, 2009) ("*Lyondell*").

10. Annexed hereto as Exhibit 4-B is a true and correct copy of the Affidavit Of Thomas Hundertmark In Support Of The Application Of The Debtors Pursuant To Sections 327(a) And 328(a) Of The Bankruptcy Code And Rule 2014 Of The Federal Rules Of Bankruptcy Procedure For Authorization To Expand The Scope Of McKinsey & Company, Inc. United States's Retention As Management Consultant To The Debtors [Doc. 2752], which was attached to the Application Of The Debtors Pursuant To Sections 327(A) And 328(A) Of The Bankruptcy Code And Rule 2014 Of The Federal Rules Of Bankruptcy Procedure For Authorization To Expand The Scope Of McKinsey & Company, Inc. United States's Retention As Management Consultant To The Debtors [Doc. 2752] filed on September 15, 2009 in *Lyondell*.

11. Annexed hereto as Exhibit 5-A is a true and correct copy of the Declaration Of Seth Goldstrom In Support Of The Debtors' Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Management Consultants *Nunc Pro Tunc* As Of The Petition Date [Doc. 105-3], which was attached as exhibit B to The Application Of Debtors To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Management

Consultant *Nunc Pro Tunc* As Of The Petition Date [Doc. 105] filed on April 4, 2011 in *In re Harry & David Holdings, Inc.*, No. 11-BR-10884 (Bankr. D. Del. filed Mar. 28, 2011) (“*Harry & David*”).

12. Annexed hereto as Exhibit 5-B is a true and correct copy of the Supplemental Declaration of Seth Goldstrom In Support Of The Debtors’ Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Management Consultants *Nunc Pro Tunc* As Of The Petition Date [Doc. 208] filed on April 26, 2011 in *Harry & David*.

13. Annexed hereto as Exhibit 5-C is a true and correct copy of the Second Supplemental Declaration Of Seth Goldstrom In Support Of The Debtors’ Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Management Consultants *Nunc Pro Tunc* As Of The Petition Date [Doc. 457] filed on June 20, 2011 in *Harry & David*.

14. Annexed hereto as Exhibit 6-A is a true and correct copy of the Declaration Of Seth Goldstrom In Support Of The Debtors’ Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As Management Consultants *Nunc Pro Tunc* As Of December 12, 2011 [Doc. 581], which was attached as Exhibit B to the Application Of The Debtors Pursuant To 11 U.S.C. § 327(A) And Fed. R. Bankr. P. 2014 For Authority To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As Management Consultants *Nunc Pro Tunc* To December 12, 2011 [Doc. 581] filed on January 10, 2012 in *In re AMR Corp.*, No. 11-BR-15463 (Bankr. S.D.N.Y. filed Nov. 29, 2011) (“*American*”).

15. Annexed hereto as Exhibit 6-B is a true and correct copy of the Supplemental Declaration Of Seth Goldstrom In Support Of The Debtors' Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As Management Consultants *Nunc Pro Tunc* As Of December 12, 2011 [Doc. 697] filed on January 20, 2012 in *American*.

16. Annexed hereto as Exhibit 6-C is a true and correct copy of the Second Supplemental Declaration Of Seth Goldstrom In Support Of The Debtors' Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As Management Consultants *Nunc Pro Tunc* As Of December 12, 2011 [Doc. 1468] filed on February 27, 2012 in *American*.

17. Annexed hereto as Exhibit 6-D is a true and correct copy of the Third Supplemental Declaration Of Seth Goldstrom In Support Of The Debtors' Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As Management Consultants *Nunc Pro Tunc* As Of December 12, 2011 [Doc. 2695], which was attached to the Supplemental Application Of The Debtors Pursuant To 11 U.S.C. § 327(A) And Fed. R. Bankr. P. 2014 For Authority To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As Management Consultants [Doc. 2695] filed on May 10, 2012 in *American*.

18. Annexed hereto as Exhibit 6-E is a true and correct copy of the Fourth Supplemental Declaration Of Seth Goldstrom In Support Of The Debtors' Second Supplemental Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As

Management Consultants *Nunc Pro Tunc* As Of December 12, 2011 [Doc. 5344] which was attached to the Second Supplemental Application Of Debtors Pursuant To 11 U.S.C. § 327(A) And Fed. R. Bankr. P. 2014 For Authority To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan As Management Consultants [Doc. 5344] filed on November 13, 2012 in *American*.

19. Annexed hereto as Exhibit 6-F is a true and correct copy of the Fifth Supplemental Declaration Of Seth Goldstrom In Support Of The Debtors' Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan, McKinsey & Company Canada, McKinsey & Company, Inc. Belgium, McKinsey & Company, Inc. Italy, And McKinsey & Company, S.L. As Management Consultants *Nunc Pro Tunc* As Of December 12, 2011 [Doc. 6896] filed on February 28, 2013 in *American*.

20. Annexed hereto as Exhibit 6-G is a true and correct copy of the Declaration Of Seth Goldstrom In Support Of The Debtors' Application To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC, McKinsey & Company, Inc. United States, And McKinsey & Company, Inc. Japan, McKinsey & Company Canada, McKinsey & Company, Inc. Belgium, McKinsey & Company, Inc. Italy, And McKinsey & Company, S.L. As Management Consultants *Nunc Pro Tunc* As Of December 12, 2011 [Doc. 7697] filed on April 18, 2013 in *American*.

21. Annexed hereto as Exhibit 7 is a true and correct copy of the Declaration Of Kevin Carmody In Support Of The Application Of The Debtors For Entry Of An Order Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services U.S., LLC, As Restructuring Advisor To The Debtors And Debtors In Possession *Nunc Pro Tunc* To The Petition

Date [Doc. 125], which was attached as Exhibit B to the Debtors' Application For Entry Of An Order Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor To The Debtors And Debtors In Possession *Nunc Pro Tunc* To The Petition Date [Doc. 125] filed on November 21, 2012 in *In re AMF Bowling Worldwide, Inc.*, No. 12-BR-36495 (Bankr. E.D. Va. filed Nov. 13, 2012).

22. Annexed hereto as Exhibit 8-A is a true and correct copy of the Declaration Of Jared Yerian In Support Of Debtors' Application To Employ And Retain McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors And Debtors In Possession *Nunc Pro Tunc* To The Petition Date [Doc. 175-3], which was attached as Exhibit B to the Debtors' Application To Employ And Retain McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors And Debtors In Possession *Nunc Pro Tunc* To The Petition Date [Doc. 175] filed on December 28, 2012 in *In re Edison Mission Energy*, No. 12-BR-49219 (Bankr. N.D. Ill. filed Dec. 17, 2012) ("*Edison Mission*").

23. Annexed hereto as Exhibit 8-B is a true and correct copy of the First Supplemental Declaration Of Jared Yerian In Support Of Debtors' Application For Entry of an Order Authorizing Debtors To Employ And Retain McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors And Debtors In Possession *Nunc Pro Tunc* To The Petition Date [Doc. 756] filed on May 15, 2013 in *Edison Mission*.

24. Annexed hereto as Exhibit 8-C is a true and correct copy of the Second Supplemental Declaration Of Jared Yerian In Support Of Debtors' Application For Entry of an Order Authorizing Debtors To Employ And Retain McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors And Debtors In Possession *Nunc Pro Tunc* To The Petition Date [Doc. 1615] filed on November 22, 2013 in *Edison Mission*.

25. Annexed hereto as Exhibit 9-A is a true and correct copy of the Declaration Of Kevin Carmody In Support Of Application Of Debtors And Debtors In Possession, Pursuant To Sections 327(a), 328, 330, 331 And 1107(b) Of The Bankruptcy Code, Bankruptcy Rules 2014(a) And 2016(b) And Local Bankruptcy Rules 2014-1 And 2016-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors *Nunc Pro Tunc* To October 23, 2014 [Doc. 153], which was attached as Exhibit B to the Application Of Debtors And Debtors In Possession, Pursuant To Sections 327(A), 328, 330, 331 And 1107(B) Of The Bankruptcy Code, Bankruptcy Rules 2014(A) And 2016(B) And Local Bankruptcy Rules 2014-1 And 2016-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors *Nunc Pro Tunc* To October 23, 2014 [Doc. 153] filed on October 23, 2014 in *In re NII Holdings, Inc.*, No. 14-BR-12611 (Bankr. S.D.N.Y. filed Sept. 15, 2014) (“*NII Holdings*”).

26. Annexed hereto as Exhibit 9-B is a true and correct copy of the Supplemental Declaration Of Kevin Carmody In Support Of Application Of Debtors And Debtors In Possession, Pursuant To Sections 327(a), 328, 330, 331 And 1107(b) Of The Bankruptcy Code, Bankruptcy Rules 2014(a) And 2016(b) And Local Bankruptcy Rules 2014-1 And 2016-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors *Nunc Pro Tunc* To October 23, 2014 [Doc. 196] filed on November 6, 2014 in *NII Holdings*.

27. Annexed hereto as Exhibit 10 is a true and correct copy of the Declaration Of Kevin Carmody In Support Of Debtors’ Motion For Order Authorizing The Debtors To (I) Employ And Retain McKinsey Recovery & Transformation Services U.S., LLC To Provide Interim Management Services Pursuant To 11 U.S.C. § 363 And (II) Designate Kevin Carmody As Chief

Restructuring Officer *Nunc Pro Tunc* To The Petition Date [Doc. 87-3], which was attached as Exhibit B to the Debtors' Motion For Order Authorizing The Debtors To (I) Employ And Retain McKinsey Recovery & Transformation Services U.S., LLC To Provide Interim Management Services Pursuant To 11 U.S.C. § 363, And (II) Designate Kevin Carmody As Chief Restructuring Officer *Nunc Pro Tunc* To The Petition Date [Doc. 87] filed on March 23, 2015 in *In re The Standard Register Co.*, No. 15-BR-10541 (Bankr. D. Del. filed Mar. 12, 2015).

28. Annexed hereto as Exhibit 11-A is a true and correct copy of the Declaration Of Kevin Carmody In Support Of Application Of The Debtors, Pursuant To Sections 327(a), 328(a) And 1107(b) Of The Bankruptcy Code, Bankruptcy Rule 2014(a) And Local Bankruptcy Rule 2014-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors, Effective As Of The Petition Date [Doc. 212], which was attached as Exhibit B to the Application Of The Debtors, Pursuant To Sections 327(A), 328(A) And 1107(B) Of The Bankruptcy Code, Bankruptcy Rule 2014(A) And Local Bankruptcy Rule 2014-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors, Effective As Of The Petition Date [Doc. 212] filed on August 24, 2015 in *In re Alpha Natural Resources, Inc.*, No. 15-BR-33896 (Bankr. E.D. Va. filed Aug. 3, 2015) ("*ANR*").

29. Annexed hereto as Exhibit 11-B is a true and correct copy of the Supplemental Declaration Of Kevin Carmody In Support Of Application Of The Debtors, Pursuant To Sections 327(a), 328(a) And 1107(b) Of The Bankruptcy Code, Bankruptcy Rule 2014(a) And Local Bankruptcy Rule 2014-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors, Effective As Of The Petition Date [Doc. 865] filed on November 9, 2015 in *ANR*.

30. Annexed hereto as Exhibit 11-C is a true and correct copy of the Second Supplemental Declaration Of Kevin Carmody In Support Of Application Of The Debtors, Pursuant To Sections 327(a), 328(a) And 1107(b) Of The Bankruptcy Code, Bankruptcy Rule 2014(a) And Local Bankruptcy Rule 2014-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors, Effective As Of The Petition Date [Doc. 1854] filed on March 25, 2016 in *ANR*.

31. Annexed hereto as Exhibit 11-D is a true and correct copy of the Third Supplemental Declaration Of Kevin Carmody In Support Of Application Of The Debtors, Pursuant To Sections 327(a), 328(a) And 1107(b) Of The Bankruptcy Code, Bankruptcy Rule 2014(a) And Local Bankruptcy Rule 2014-1, For An Order Authorizing Them To Retain And Employ McKinsey Recovery & Transformation Services U.S., LLC As Turnaround Advisor For The Debtors, Effective As Of The Petition Date [Doc. 2464] filed on May 19, 2016 in *ANR*.

32. Annexed hereto as Exhibit 11-E is a true and correct copy of the Declaration Of Kevin Carmody In Respect Of Recommendation Of United States Trustee Pursuant To Paragraph ‘D’ Of Order Dated July 15, 2016 (DOCKET # 3055) [Doc. 3223] filed on August 5, 2016 in *ANR*.

33. Annexed hereto as Exhibit 12-A is a true and correct copy of the Declaration Of Mark W. Hojnacki In Support Of Debtors’ Application For Order Pursuant To Sections 327(a), 328, 330, 331, And 1107(b) Of The Bankruptcy Code, Bankruptcy Rules 2014(a) And 2016(b) And Local Bankruptcy Rules 2014-1 And 2016-1 Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors, *Nunc Pro Tunc* To The Petition Date [Doc. 202], which was attached as Exhibit B to the Debtors’ Application For Order Pursuant To Sections 327(A), 328, 330, 331, And 1107(B) Of The Bankruptcy Code, Bankruptcy Rules 2014(A) And 2016(B) And Local Bankruptcy Rules 2014-1

And 2016-1 Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors, *Nunc Pro Tunc* To The Petition Date [Doc. 202] filed on May 5, 2016 in *In re SunEdison*, No. 16-BR-10992 (Bankr. S.D.N.Y. filed Apr. 21, 2016) (“*SunEdison*”).

34. Annexed hereto as Exhibit 12-B is a true and correct copy of the Amended Declaration Of Mark W. Hojnacki In Support Of Debtors’ Application For Order Pursuant To Sections 327(a), 328, 330, 331, And 1107(b) Of The Bankruptcy Code, Bankruptcy Rules 2014(a) And 2016(b) And Local Bankruptcy Rules 2014-1 And 2016-1 Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors, *Nunc Pro Tunc* To The Petition Date [Doc. 484] filed on June 6, 2016 in *SunEdison*.

35. Annexed hereto as Exhibit 12-C is a true and correct copy of the Supplement To Amended Declaration Of Mark W. Hojnacki In Support Of Debtors’ Application For Order Pursuant To Sections 327(a), 328, 330, 331, And 1107(b) Of The Bankruptcy Code, Bankruptcy Rules 2014(a) And 2016(b) And Local Bankruptcy Rules 2014-1 And 2016-1 Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors, *Nunc Pro Tunc* To The Petition Date [Doc. 586] filed on June 14, 2016 in *SunEdison*.

36. Annexed hereto as Exhibit 12-D is a true and correct copy of the Second Supplement To Amended Declaration Of Mark W. Hojnacki In Support Of Debtors’ Application For Order Pursuant To Sections 327(a), 328, 330, 331, And 1107(b) Of The Bankruptcy Code, Bankruptcy Rules 2014(a) And 2016(b) And Local Bankruptcy Rules 2014-1 And 2016-1 Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services

U.S., LLC As Restructuring Advisor For The Debtors, *Nunc Pro Tunc* To The Petition Date [Doc. 1958] filed on December 21, 2016 in *SunEdison*.

37. Annexed hereto as Exhibit 12-E is a true and correct copy of the Third Supplement To Amended Declaration Of Mark W. Hojnacki In Support Of Debtors' Application For Order Pursuant To Sections 327(a), 328, 330, 331, And 1107(b) Of The Bankruptcy Code, Bankruptcy Rules 2014(a) And 2016(b) And Local Bankruptcy Rules 2014-1 And 2016-1 Authorizing The Employment And Retention Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors, *Nunc Pro Tunc* To The Petition Date [Doc. 2614] filed on March 20, 2017 in *SunEdison*.

38. Annexed hereto as Exhibit 13-A is a true and correct copy of the Declaration Of Kevin M. Carmody In Support Of Debtors' Application For Entry Of An Order (I) Authorizing The Retention And Employment Of McKinsey Restructuring & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors *Nunc Pro Tunc* To The Petition Date And (II) Granting Related Relief [Doc. 123-2], which was attached as Exhibit B to the Debtors' Application For Entry Of An Order (I) Authorizing The Retention And Employment Of McKinsey Restructuring & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors *Nunc Pro Tunc* To The Petition Date And (Ii) Granting Related Relief [Doc. 123-2] filed on June 23, 2017 in *In re GenOn Energy, Inc.*, No. 17-BR-33695 (Bankr. S.D. Tex. filed June 14, 2017) ("*GenOn*").

39. Annexed hereto as Exhibit 13-B is a true and correct copy of the First Supplement To Declaration Of Kevin M. Carmody In Support Of Debtors' Application For Entry Of An Order (I) Authorizing The Retention And Employment Of McKinsey Recovery & Transformation

Services U.S., LLC As Restructuring Advisor For The Debtors *Nunc Pro Tunc* To The Petition Date And (II) Granting Related Relief [Doc. 221-1] filed on July 13, 2017 in *GenOn*.

40. Annexed hereto as Exhibit 13-C is a true and correct copy of the Second Supplement To Declaration Of Kevin M. Carmody In Support Of Debtors' Application For Entry Of An Order (I) Authorizing The Retention And Employment Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors *Nunc Pro Tunc* To The Petition Date And (II) Granting Related Relief [Doc. 771] filed on September 15, 2017 in *GenOn*.

41. Annexed hereto as Exhibit 13-D is a true and correct copy of the Third Supplement To Declaration Of Kevin M. Carmody In Support Of Debtors' Application For Entry Of An Order (I) Authorizing The Retention And Employment Of McKinsey Recovery & Transformation Services U.S., LLC As Restructuring Advisor For The Debtors *Nunc Pro Tunc* To The Petition Date And (II) Granting Related Relief [Doc. 1429] filed on February 7, 2018 in *GenOn*.

42. Annexed hereto as Exhibit 14 is a true and correct copy of the Motion Of Creditor Mar-Bow Value Partners, LLC To Compel McKinsey Recovery & Transformation Services U.S., LLC, Turnaround Advisor For The Debtors, To Comply With The Requirements Of Bankruptcy Rule 2014 [Doc. 2603] and the supporting Declaration Of Jay Alix [Doc. 2603-1] filed on June 6, 2016 in *ANR*.

43. Annexed hereto as Exhibit 15 is a true and correct copy of the Motion Of The Debtors Pursuant To 11 U.S.C. §§ 105(A) And 363(B) To (I) Retain Alvarez & Marsal North America, LLC To Provide The Debtors An Interim Chief Executive Officer And Chief Restructuring Officer And Certain Additional Officers And Additional Personnel And (II)

Designate Kay Hong As Chief Restructuring Officer For The Debtors *Nunc Pro Tunc* To The Petition Date [Doc. 101] filed on April 4, 2011 in *Harry & David*.

44. Annexed hereto as Exhibit 16 is a true and correct copy of the Statement of Terraform Power, Inc. And Terraform Global, Inc. In Connection With The Debtors' First Day Motions [Doc. 50] filed on April 22, 2016 in *SunEdison*.

Executed: July 30, 2018
New York, New York

By: /s/ Jennifer M. Selendy
Jennifer M. Selendy